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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,130	12/15/2003	Ikuo Nakagawa	4777-36	5726

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EXAMINER

TREAT, WILLIAM M

ART UNIT PAPER NUMBER

2181

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/737,130

Applicant(s)

NAKAGAWA ET AL.

Examiner

William M. Treat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/21/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-12 are presented for examination.
2. The drawings are objected to because Figs. 5(a) and 5(b) are described as depicting a change of pointer but the two figures are the same. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Saboff (Patent No. 6,154,878).

5. Saboff taught the invention of exemplary claim 1 including a computing apparatus comprising: a pointer storage section storing a pointer for specifying an execution section for execution of computation (col. 16, line 62 through col. 17, line 12); a data storage section capable of storing data (col. 7, lines 27-35); an execution instruction section causing the execution section specified by the pointer stored in said pointer storage section to execute computation using the data stored in said data storage section (col. 7, lines 7-13); and a pointer management section changing the pointer stored in said pointer storage section from a first pointer to a second pointer (col. 14, lines 20-53), the first pointer specifying a first execution section and the second pointer specifying a second execution section (col. 17, lines 3-7 and col. 17, lines 26-29), wherein said data storage section is capable of keeping the data stored, after the pointer is changed by said pointer management section, such that said execution instruction section causes the second execution section to execute computation using the data that has been used by the first execution section (col. 7, lines 27-35).

6. As to claim 2, Saboff taught the computing apparatus according to claim 1 wherein said pointer management section includes a function of deleting the pointer stored in said pointer storage section and a function of adding another pointer to said pointer storage section (col. 17, lines 3-7 and col. 17, lines 26-29). Since the Pointer Linkage Table always points to the new, current version of the software upon completion of the update process, the other pointer has been deleted.

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7. As to claim 3, Saboff taught the computing apparatus according to claim 1 wherein said pointer management section includes a function of re-reading the execution section, by reading the second execution section in place of the first execution section (col. 17, lines 26-29). Once the pointer is updated, the Pointer Linkage Table will cause the second execution section to be read in place of the first execution section, as claimed by applicants.

8. As to claim 5, Saboff taught the computing apparatus according to claim 1, wherein said data storage section is capable of storing information of a version of the data, and said execution section is capable of executing computation using the data in accordance with the version indicated by the information (col. 8, lines 20-24 and col. 11, lines 1-13).

9. As to claim 6, Saboff taught the computing apparatus according to claim 1, wherein said pointer management section includes a function of adding another execution section, and a function of adding another pointer specifying said another execution section means to said pointer storage section (col. 14, lines 21-27 and Fig. 6).

10. As to claim 7, Saboff taught the computing apparatus according to claim 1, wherein said pointer management section includes a function of deleting the execution section, and a function of deleting or changing said pointer stored in said pointer storage section, said pointer specifying the execution section deleted (col. 17, lines 29-34).

11. As to claims 8-9 and 12, they fail to teach or define over rejected claims 1-3 and 5-7.

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12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 4 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saboff (Patent No. 6,154,878) in view of Segal (On-the-fly Program Modification: Systems for Dynamically Updating).

15. Saboff taught the inventions of independent claim 1 from which claim 4 depends and independent claim 9 from which claims 10 and 11 depend. He did not teach said pointer management section further has a function of reading a data conversion execution section for converting data stored in the data storage section. However, Segal taught this was a known problem and known solution in the art when data and data types inconsistent with the new software update were created by the old software (pp. 55-56, the section entitled Data type replacement).

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16. As to claims 10 and 11, Segal taught use of a dynamic updating system such as Saboff's for the updating of an Internet packet router (pp. 61-62, the last paragraph of Prototype System which would meet the limitations of claims 10 and 11.

17. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

18. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 is for a computer program which is not a statutory invention.

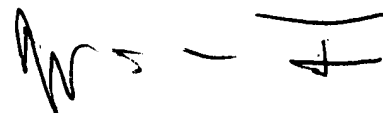
19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication should be directed to William M. Treat at telephone number (571) 272-4175.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WILLIAM M. TREAT
PRIMARY EXAMINER